IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2998 OF 2002

IN

SUIT NO.3526 OF 2002

Paharia Silk Mills Pvt.Ltd. ... Plaintiffs

v/s

M/s Pachulal Amitkumar and ors. ... Defendants

Mr Ravi Kadam i/b M/s Mansukhlal Hiralal and Co. for Plaintiffs.

Mr K.B. Soni i/b M/s O.P. Soni and Co. for Defendants.

CORAM : D.K.DESHMUKH J.

DATE : 13TH AUGUST 2004

P.C.: -

1. Admittedly, the plaintiffs are owners of the registered trade mark as also the registered logo. The Court has granted ad-interim order on 20th November 2002. That order is operating for nearly two years now. The only justification given by the defendants is that 'Paharia' is a registered trade mark but it is their surname and therefore, they can use it. In my opinion, justification cannot be accepted because the trade mark is registered to the knowledge of the defendants and therefore, so long as the trade mark continues to be registered, the defendants cannot use it. The use of the registered trade mark cannot be termed as bonafide. In my opinion, therefore, it will be in the interest of justice to pass the following order.

2. Notice of motion is granted in terms of prayer clauses (a) and (b) excluding the bracketed portion.

Notice of motion is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.